

ASSEMBLY BILL

No. 1692

Introduced by Assembly Member Wieckowski

February 15, 2012

An act to amend Section 53760.1 of the Government Code, relating to bankruptcy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1692, as introduced, Wieckowski. Bankruptcy: redevelopment: successor agencies.

Existing law suspended various activities of redevelopment agencies and prohibited those agencies from incurring indebtedness for a specified period. Existing law dissolved redevelopment agencies on February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, repay enforceable obligations, as defined, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities.

Existing law authorizes a local public entity, as defined, to file a petition and exercise powers pursuant to applicable federal bankruptcy law, subject to specified procedures, including participation in a neutral evaluation process with interested parties, as defined, or upon a declaration of fiscal emergency, as specified.

This bill would authorize a successor agency to file for bankruptcy under applicable federal bankruptcy law, subject to existing procedures.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 53760.1 of the Government Code is amended to read:

53760.1. As used in this article the following terms have the following meanings:

(a) “Chapter 9” means Chapter 9 (commencing with Section 901) of Title 11 of the United States Code.

(b) “Creditor” means either of the following:

(1) An entity that has a noncontingent claim against a municipality that arose at the time of or before the commencement of the neutral evaluation process and whose claim represents at least five million dollars (\$5,000,000) or comprises more than 5 percent of the local public entity’s debt or obligations, whichever is less.

(2) An entity that would have a noncontingent claim against the municipality upon the rejection of an executory contract or unexpired lease in a Chapter 9 case and whose claim would represent at least five million dollars (\$5,000,000) or comprises more than 5 percent of the local public entity’s debt or obligations, whichever is less.

(c) “Debtor” means a local public entity that may file for bankruptcy under Chapter 9.

(d) “Good faith” means participation by a party in the neutral evaluation process with the intent to negotiate toward a resolution of the issues that are the subject of the neutral evaluation process, including the timely provision of complete and accurate information to provide the relevant parties through the neutral evaluation process with sufficient information, in a confidential manner, to negotiate the readjustment of the municipality’s debt.

(e) “Interested party” means a trustee, a committee of creditors, an affected creditor, an indenture trustee, a pension fund, a bondholder, a union that, under its collective bargaining agreements, has standing to initiate contract or debt restructuring negotiations with the municipality, or a representative selected by an association of retired employees of the public entity who receive income from the public entity convening the neutral evaluation. A local public entity may invite holders of contingent claims to participate as interested parties in the neutral evaluation if the local public entity determines that the contingency is likely to occur and

1 the claim may represent five million dollars (\$5,000,000) or
2 comprise more than 5 percent of the local public entity's debt or
3 obligations, whichever is less.

4 (f) "Local public entity" means any county, city, district, public
5 authority, public agency, *a successor agency, as defined in Section*
6 *34171 of the Health and Safety Code*, or other entity, without
7 limitation, that is a municipality as defined in Section 101(40) of
8 Title 11 of the United States Code (bankruptcy), or that qualifies
9 as a debtor under any other federal bankruptcy law applicable to
10 local public entities. For purposes of this article, "local public
11 entity" does not include a school district.

12 (g) "Local public entity representative" means the person or
13 persons designated by the local public agency with authority to
14 make recommendations and to attend the neutral evaluation on
15 behalf of the governing body of the municipality.

16 (h) "Neutral evaluation" is a form of alternative dispute
17 resolution that may be known as mandatory mediation. A "neutral
18 evaluator" may also be known as a mediator.